



TOWNSHIP OF UPPER UWCHLAN
BOARD OF SUPERVISORS
REGULAR MEETING,
CONDITIONAL USE HEARING

March 21, 2016
7:00 p.m.
Approved

In Attendance:

Board of Supervisors

Guy A. Donatelli, Chair
Kevin C. Kerr, Vice-Chair
Jamie W. Goncharoff, Member

Kristin Camp, Esq. Township Solicitor
Mark Hagerty, Court Stenographer

Township Administration

Cary B. Vargo, Township Manager
Gwen A. Jonik, Township Secretary
John DeMarco, Police Chief
Jill Bukata, Township Treasurer
Mike Heckman, Director of Public Works
Al Gaspari, Codes Administrator
Dave Leh, P.E., Township Engineer

Mr. Donatelli called the meeting to order at 7:00 p.m., led the Pledge of Allegiance, and offered a moment of silence. The meeting was held at the Pickering Valley Elementary School, 121 Byers Road, Chester Springs.

Approval of Minutes

Mr. Kerr moved, seconded by Mr. Goncharoff, to approve as presented the minutes of the February 9, 2016 Board of Supervisors Workshop and the February 16, 2016 Board of Supervisors Meeting and Conditional Use Hearings. The Motion carried unanimously.

Approval of Payments

Mr. Kerr moved, seconded by Mr. Goncharoff, to pay all vendors as listed March 18, 2016. The Motion carried unanimously.

Treasurer's Report

Jill Bukata advised that the Pension Committee agrees with their Advisor's recommendation to make the municipal minimum obligation payments to the pension plan on a quarterly basis rather than once annually (in the 4th quarter) as has been the practice. This is suggested so that we could invest at various points in the market cycle, perhaps at a high point in the market. The recommendation was unanimously approved.

Ms. Bukata reported a strong financial position, with year to date revenues at 13.7% of budget and expenses at 11.2% of budget; real estate tax bills were mailed by the Tax Collector the first week of March; and we've received the Liquid Fuels funds from the State - \$362,258.00.

Supervisor's Report

Mr. Donatelli announced an Executive Session was held Friday, February 19, 2016 regarding legal and personnel matters. He read the following calendar: March 25, 2016 Office Closed – Good Friday; April 12, 2016 4:00 PM Joint Boards & Commissions Workshop; April 17-20, 2016 Pennsylvania State Association of Township Supervisors Annual Educational Conference in Hershey, PA; April 25, 2016 7:00 PM Board of Supervisors Meeting; June 18, 2016 6:00 PM 8th Annual Upper Uwchlan Township Block Party, and upcoming yard waste collection dates are April 6, April 13, April 20 and April 27.

Administration Reports

Township Engineer's Report

Dave Leh advised that the land development items in his report will be discussed under Land Development.

Building and Codes Department Report

Al Gaspari reported that 38 building permits were approved in February, totaling \$31,184 in permit fees.

Police Chief's Report

Chief DeMarco reported the Department logged 1,173 incidents in February, including 24 reported crimes and 15 criminal arrests.

Public Works Department Report

Mike Heckman reported that since the last meeting, the Department responded to 2 snow/ice events, paved the lower parking lot at Fellowship Fields, and performed routine maintenance / inspections on vehicles and equipment. He thanked Uwchlan Township personnel for their assistance with the paving project. Two proposals were received for the 2016 Street Sweeping Contract, and Mr. Heckman recommended awarding the Contract to the lowest responsible bidder, R&S Sweeping at \$14,700.00. Mr. Kerr moved, seconded by Mr. Goncharoff, to award the 2016 Street Sweeping Contract to R&S Sweeping at \$14,700.00. The Motion carried unanimously.

Land Development

Lou Colagreco, Esq., representing T.R. Moser, Inc., presented a Petition to amend the zoning map for the Popjoy Tract (parcels 32-3-37) on the south side of Little Conestoga Road at the boundary with Wallace Township from R-1 Residential (1 dwelling/2 acres) to R-2 Residential (1 dwelling/1 acre). The zoning map amendment had been presented to the Planning Commission and the Board of Supervisors over the past few months to explain the request for the parcel, which had previously received approval under the flexible design overlay for 27 single-family homes (20 in Upper Uwchlan, 7 in Wallace) on .5-acre lots with a community sewer system. Due to market changes since then, T.R. Moser would like to propose 21 1-acre lots in Upper Uwchlan as 2-acre lots aren't selling well in Chester County. Onsite septic will be proposed.

Kristin Camp, Esq., explained that any amendment to the zoning map requires adoption of an Ordinance and a public hearing pursuant to public notice regarding the intent to adopt the Ordinance amendment, as required by the Pennsylvania Municipalities Planning Code. Ms. Camp marked the following Exhibits for this hearing:

B-1 The Petition to amend the zoning ordinance

B-2 Proof of publication in the Daily Local News March 7 and March 14, 2016

B-3 Kristin Camp letter to the Chester County Law Library providing copy of proposed ordinance

B-4 Kristin Camp letter to the Daily Local News providing copy of proposed ordinance

B-5 Cary Vargo letter to property owners

B-6 Affidavit of property posting

B-7 Chester County Planning Commission comment letter dated February 5, 2016

B-8 Township Planning Commission's January 14, 2016 meeting minutes

B-9 Brandywine Conservancy memorandum dated February 1, 2016

Requirements for the zoning map and zoning ordinance text changes have been met. The Township Planning Commission had favored the zoning map change. The Board had reviewed the information and had no questions. Florence Clark of Morninglight Road asked if the proposed homes would have on-site utilities. Mr. Colagreco replied yes, they would have on-site utilities.

There being no further discussion, Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Ordinance #2016-02, approving the zoning map change from R-1 Residential to R-2 Residential for the parcel 32-3-37. The Motion carried unanimously.

Frame Property Final Land Development Plan. Alyson Zarro, Esq. of Riley Riper Hollin & Colagreco and Mike Down of Toll Brothers were in attendance seeking Final Land Development Plan approval for the Frame Property / "Reserve at Chester Springs" project on Little Conestoga Road, near the Turnpike overpass. The project consists of 3 parcels: 61 new detached single-family homes on the north side of Little Conestoga, the original farmstead on Green Valley Road (retaining 5 acres with the buildings), and the third parcel will be dedicated to the Township. The revised Final Plan, dated December 18, 2015, was presented in February to the Planning Commission, who recommended Final Plan approval. The Planning Commission recommended a larger easement for potential parking area where the public trail will be located on the edge of the Green Valley Road parcel. The Plan will comply with the majority of the consultants' comments contained in Gilmore & Associates' February 4, 2016 review letter. There are just a few items that will be adjusted to satisfactorily address the comments, such as the potential future connection on the north side, to the Feters property, will have a sign stating future connection and the street light suggested on the bulb of that cul-de-sac will be to the side so it wouldn't need to be moved if the connection is made; the street trees at the first curve in the road from the entrance will have a small gap for increased sight distance at a higher speed than recommended. There will be a Homeowners Association.

Mr. Donatelli moved, seconded by Mr. Goncharoff, to grant Final Subdivision/Land Development Approval to the Plan prepared by ESE Consultants, title "Final Major Subdivision Plan for Frame Property" dated October 2, 2014 and last revised December 18, 2015, with the following conditions:

1. The conditions set forth in the June 17, 2013 Conditional Use Decision & Order still apply.
2. The conditions set forth in the Preliminary Subdivision/Land Development approval still apply.
3. The Applicant shall comply with all comments listed in Gilmore & Associates February 4, 2016, review letter.
4. The Applicant will obtain all permits required from PennDOT, Pa-DEP, and the Chester County Conservation District.
5. The Applicant shall comply with all comments listed in the Planning Commission's February 11, 2016, meeting minutes.
6. The Applicant agrees to pay a Transportation Impact Fee in the amount of \$107,479.68, which is to be paid at the time of the issuance of the first building permit.

The Motion carried unanimously.

Gunner Properties 270-290 Park Road Conditional Use Decision & Order. Mr. Donatelli advised that several hearings were held regarding a conditional use application for a 40 townhouse development on @ 5 acres on Park Road. The project was reviewed by Township commissions and consultants.

Mr. Donatelli moved, seconded by Mr. Kerr, to approve a Decision & Order drafted by Kristin Camp, Esq., the Township Solicitor for this project, which sets forth 16 specific Conditions of Approval. The Motion carried unanimously.

Gunner Properties 270-290 Park Road Preliminary/Final Land Development Plan. Alyson Zarro, Esq., representing Fred Gunther / Gunner Properties, advised that the Land Development Plan had been updated as part of the Conditional Use process. The 40 townhouses will be 24' wide, they will comply with all comments in the March 4 consultants' review letter and they'll comply with the Planning Commission's condition to work with an ad hoc committee to agree on architectural elevations. Waivers were discussed during the Conditional Use process and included in the Decision & Order. The Municipal Authority will discuss the project's public sewer treatment and disposal needs at their meeting tomorrow evening.

Mr. Donatelli moved, seconded by Mr. Kerr, to grant Preliminary/Final Land Development Approval to the Plan prepared by D.L. Howell & Associates, Inc. dated October 2, 2015 and last revised January 27, 2016 with the following conditions:

1. All conditions and requirements stated in the Conditional Use Decision & Order shall be adhered to.
2. The Plans shall be revised to comply with Gilmore & Associates' March 4, 2016, review letter.
3. An ad hoc committee will review and approve architectural elevations, particularly the front facades.
4. The Applicant shall secure all required outside agency permits prior to Plan recording.
5. The Applicant shall obtain all necessary approvals from the Township and the Upper Uwchlan Municipal Authority to provide public sewer to the dwelling units in the development and shall purchase sufficient sewer capacity for such units from the Township.
6. The Applicant agrees to pay a Transportation Impact Fee in the amount of \$45,597.44 which shall be paid at the time of the first building permit application.

The Motion carried unanimously.

Inter-Municipal Transfer of Liquor License (ACME). Mark Kozar, Esq. of Flaherty & O'Hara, on behalf of ACME, requested the Board's permission to transfer a restaurant-liquor license to the ACME store at 400 Simpson Drive, in the Eaglepointe Shopping Center. A liquor license can be transferred within Chester County with permission by the receiving Township. ACME has 179 stores in 6 states; the Eagle store has over 100 employees, and they are planning to remodel the store to include 4,100 square feet of restaurant (seating for 33 people) within the existing store space. There are currently 7 stores in Pennsylvania doing this. The initial intent is for the purchase and consumption of beer on premises or take home. The restaurant food could also be take out, too. There is no limit to quantity consumption on-site, though bartender will discontinue serving if necessary, and to go quantity is limited to 192 ounces. Wine sales for consumption on premises may be considered in the future. The restaurant would be open for breakfast, lunch and dinner and has to be certified per LCB standards. Cash out requires ID and there will be a separate entrance from the street. In the future they may also consider serving drinks made of hard liquor, but no hard liquor sales.

Mr. Goncharoff questioned the store's limit of liability insurance, which wasn't known at this time but can be researched. Mr. Donatelli reviewed the procedure at this time – If the Supervisors favor the transfer and approve a Resolution stating so, ACME takes the Resolution to the State which shows them Upper Uwchlan is okay with the transfer. Mr. Kozar stated that is correct. The Supervisors expressed favor to approve the transfer with Mr. Goncharoff's requested liability insurance being included in the approval, perhaps \$5,000,000.00. Mr. Kozar believes determining a reasonable amount of insurance would be fine with ACME and since they are such a large company, he was fairly certain they would have the proper amount of insurance.

It was unclear if the restaurant use would require conditional use approval and it was unclear how this would affect the public sewer system. Those items will be investigated further if ACME receives the Township's and the State's approval to transfer the liquor license. Further discussion reduced the Township's liability insurance request to \$2,000,000.00-\$3,000,000.00.

Mr. Donatelli moved, seconded by Mr. Kerr, to approve Resolution # 03-21-16-03 with the condition that they secure the correct liability insurance but not less than \$2,000,000.00. The Motion carried unanimously. The amount will be written into the Resolution prior to the Board's signature. The Board thanked ACME for conducting business in the Township.

Noise Ordinance. Discussion of the draft Noise Ordinance, regulating the hours in which noise-emitting work may take place in the Township, was tabled until we receive County and Township Planning Commission comments.

Participation in Delaware Valley Insurance Trust. Cary Vargo reported the Township evaluated Delaware Valley Insurance Trust (DVIT) for providing general property and liability insurance, a savings of \$11,000 from the renewal rate, and discounts in the future based on being members in multiple trusts. DVIT is a multi-member, inter-municipal Trust. The Township currently has DVIT coverage for health insurance and workers compensation. Mr. Donatelli moved, seconded by Mr. Goncharoff, to adopt Ordinance #2016-03, authorizing participation in an inter-municipal Trust for general property and liability insurance. The Motion carried unanimously.

Storm Water Authority Program Study - Phase II. Cary Vargo reported that during 2014-2015 a Phase I Storm Water Authority Feasibility Study was completed, which determined that storm water related capital improvements and infrastructure repair is needed. Phase II Program Development details a particular scope of work, including developing a 5-year business plan, develop a billing policy, determine the value of the Township ERU (equivalent residential unit), develop a database for the GIS, etc. Mr. Vargo asked for the Board's permission for T & M Associates to proceed to conduct Phase II, at a cost not to exceed \$115,960.00. Mr. Donatelli moved, seconded by Mr. Kerr, to authorize T & M Associates to move forward with Phase II Program Development. Mr. Goncharoff asked that if we go through with the full program, when could it be implemented? Mr. Vargo advised that the conservative due diligence would probably be 2018 at the earliest. The Motion carried unanimously.

Village of Eagle Park – Authorize Final Design. Mr. Vargo advised that the Village Concept Committee has worked with Ray Ott to prepare a concept for a Park on the Township property north of the Township building, where the salt shed had been located. A concept has been agreed upon and Mr. Vargo seeks permission for Mr. Ott to design the Park for construction. The design costs were included in the 2016 budget. Mr. Donatelli moved, seconded by Mr. Goncharoff, to authorize Mr. Vargo to execute the contract with Ray Ott to design the Park. The Motion carried unanimously.

Bergman Engineering – Process Review Authorization. Mr. Donatelli advised that the Township was interested in hiring an independent consultant to review the Township's land development and permit approval processes, relating to approvals of businesses within Eagleview, as well as in general. Mr. Vargo seeks authorization to execute an engagement letter for Bergman Engineering's services. Mr. Kerr moved, seconded by Mr. Goncharoff, to authorize Mr. Vargo to execute the Agreement. The Motion carried unanimously.

Telgian Corporation – Code Review Authorization. Mr. Vargo advised that as a result of recent concerns regarding manufacturing and outside storage of materials, the Township sought expert advice for fire and safety code review. Telgian Corporation will review adopted codes and consult on permitting, enforcement and inspection for outdoor storage of flammable and combustible liquids. It is hoped the review may be complete in April or May. Mr. Kerr moved, seconded by Mr. Goncharoff, to execute the Agreement with Telgian Corporation to conduct said review. The Motion carried unanimously.

Open Session

Steve Senn asked if a left turn lane signal could be added on Graphite Mine Road, especially for rush hour. Mr. Vargo will review the traffic signal program to determine trends.

Lisa Keim asked if everyone in the Township will have to hook up to public sewer. Mr. Donatelli advised that not everyone will have to hook up – there's a particular area involved in an expansion project at this time. It might not even be possible to be township-wide.

Mr. Donatelli adjourned the regular business meeting at 8:05 p.m. and announced a 5-minute recess would be taken to set up for the Conditional Use Hearing.

Mr. Donatelli reconvened the assembly at 8:12 p.m. and asked Kristin Camp, Esq., to conduct the Conditional Use Hearing. Ms. Camp introduced the Application of the Hankin Group, seeking approval pursuant to Township Code 200-49.M.1 to permit the manufacturing of silicone hydrogel, the base material for making contact lenses, at a property on Sierra Drive on Lot #1 in the Eagleview Corporate Center, which is the Planned Industrial (PI) zoning district. Mark Hagerty, Court Stenographer, recorded the Hearing.

Ms. Camp marked the following Board Exhibits for the Record:

B-1 Conditional Use Application dated February 29, 2016

B-2 Conditional Use submitted with the Application February 29, 2016

B-3 Proof of Publication in the Daily Local News March 7 and March 14

B-4 Affidavit of Posting

B-5 Draft minutes of the Planning Commission's March 10, 2016 meeting, reserved for when they are approved

B-6 March 14, 2016 Gilmore & Associates Letter

Mike Malloy, Esq., with the Hankin Group, Denise Yarnoff, Esq. of Riley, Riper, Hollin & Colagrecio, and Neal Fisher, P.E. were in attendance. Mr. Malloy accepted the Board's Exhibits.

Ms. Camp asked if anyone was interested in becoming a Party to the Hearing. The following residents were interested: Steve McNaughton 280 Moore Road, Joanne McNaughton 280 Moore Road, Patrick Dennin 371 Township Line Road, Rhys Williams 290 Moore Road and Allison Aramany 302 Auburn Drive.

Ms. Camp explained the Hearing procedures, the Mr. Malloy would present his witnesses and each witness could then be questioned by the Board of Supervisors, followed by the Parties. Ms. Camp announced that we were able to use the room until 9:30 p.m. and if the testimony wasn't complete at that time, the Hearing would be continued to another evening. There were approximately 30 residents in attendance.

Mr. Malloy distributed Applicant's exhibit packets.

Steve McNaughton commented that he believed the property posting wasn't adequately conspicuous and the Hearing should be postponed, citing a "procedural defect". Mr. McNaughton presented photographs of the postings to Mr. Malloy and they were marked as follows:

SMcNaughton 1 - taken 3-14-2016 shows cul-de-sac with equipment blocking posting.

SMcNaughton 2 - taken 3-14-2016 showing a different view of the equipment.

SMcNaughton 3 - taken 3-14-2016 showing a larger view of the cul-de-sac

SMcNaughton 4 - shows the posting between machinery

Mr. Malloy chose to move forward with the Hearing this evening. Mr. Malloy presented an overview of the Application, requesting permission for a manufacturing use, for tenant DSM Biomedical, in a portion of a 80,000 SF building, currently under construction on Sierra Drive in the Eagleview Corporate Center. This Application cites all storage tanks will now be housed indoors. The following people will provide testimony this evening for the Applicant: Neal Fisher, P.E., the Hankin Group; Chris Radano, DSM; Maureen Wall, P.E. - process safety; Carl Bones, PhD - emergency response; Mark DiPrinzio, P.E. - environmental consulting - air quality permitting.

Mr. Malloy marked the following Applicant's Exhibits:

A-1 Property Deed dated January 9, 1986

A-2 Conditional Use Application with addendum dated February 29, 2016

A-3 Conditional Use Plan Sheets 1-4

A-4 Aerial picture of the building and surrounding area

A-5 Exemption letter from PaDEP dated August 27, 2015

A-6 Chester Valley Engineer's correspondence dated February 29, 2016

A-7 Gilmore & Associates correspondence dated March 14, 2016

A-8 Richard Ruth, Fire Marshal, correspondence to Neal Fisher
A-9 Ray Ott Fiscal Impact Statement dated December 2, 2015
A-10 Traffic Planning & Design letter dated December 1, 2015
A-11 Elevations of proposed building
A-12 CRB Engineers letter dated March 18, 2016
A-13 Neal Fisher's C.V.
A-14 Christopher Radano's C.V.
A-15 Maureen Wall's C.V.
A-16 Carl Bones' C.V.
A-17 Mark DiPrinzio's C.V.
A-18 Anthony Sarrack C.V.

Ms. Camp accepted the Applicant's exhibits and Mr. Malloy proceeded to question Neal Fisher regarding the design of the building, which will be over 81,000 SF, with DSM interested in leasing 53,500 SF for office, lab and research & development, as well as 20,500 SF for the manufacturing of the silicone hydrogels, the base material for producing soft contact lenses. No outdoor storage of any materials is proposed in this Application. The building for the storage tanks is @ 380 feet from the nearest residential property line and @ 130 feet from the walking trail; the building will be served by public water and sewer ; no manufacturing waste will be discharged into the public sewer system; they will comply with the Planning Commission's condition that the storage tank building is constructed of masonry; the use would have a positive fiscal impact to the Township and school district; the fire company has adequate equipment to serve this property; township zoning requirements are met; all federal/state/local permits will be secured.

The Board of Supervisors had no questions at this time. Ms. McNaughton questioned the construction equipment remaining on the road after hours. An objection by Mr. Malloy that the question didn't relate to the testimony just provided was sustained. Patrick Dennin questioned the positive financial impact and the difference between light manufacturing and heavy manufacturing. Mr. Fisher noted the financial impact would be \$960.00 to the Township and \$386,000/year for the school district, and this manufacturing use was considered light manufacturing. There were no other questions by Parties.

Mr. Malloy proceeded to question Christopher Radano who works for DSM Biomedical, and provided testimony regarding the proposed manufacturing process. The manufacturing process is a blending and evaporative process of materials, in 3 steps. The water (waste) is pulled off the product and within a closed system is piped to a tank and removed from the site by a third party. No heat or energy is given off from the process, no pressure applied to the vessels, no noise, no light, no odors are given off from the process. No materials are discharged into the public sewer or public water systems. All materials are contained so they can't get out and cause a runaway reaction. If anything would go wrong, the result would be that the product would get messed up - a financial loss -- no explosion or fire hazard. The final product is transferred to drums and shipped to customers, who take material and make soft contact lenses. There are 3 shifts: 1 is manufacturing, 2 and 3 are process monitoring, maintenance and cleaning. Approximately 15 employees in manufacturing; 50 overall employees. Acetone, a cleaning solvent, is used to clean the mixing vessels. The acetone is delivered approximately every 2-3 weeks and pick-up of the waste acetone occurs every 2-3 weeks as well.

Mr. Goncharoff questioned: the dimensions of a 500 gallon vessel for the first step in process, which Mr. Radano advised would be roughly 10' x 10' x 15'; the tank construction material, which Mr. Radano advised would be stainless steel vessels; how the raw materials are stored, which is in drums or plastic containers; are these hazardous materials and will the acetone be stored inside. Mr. Radano said raw materials weren't hazardous and the acetone would be stored inside.

Ms. Camp announced that it was 9:30 p.m. but we wanted to complete the questioning of this witness.

There were no further questions by the Board of Supervisors. The Parties had the following questions:

Steve McNaughton questioned whether heat was added during the process, is the aqueous waste can be hazardous, if the raw materials are hazardous, and the frequency of acetone deliveries. Mr. Radano advised that minimal heat – less than boiling temperatures – is added during the process but poses no threat of explosion, the aqueous waste from the process isn't flammable or hazardous, some of the raw materials can be considered hazardous, and the acetone is delivered approximately every 2-3 weeks -- it's used to clean the vessel(s) as the product moves to the next vessel in the process.

Joanne McNaughton asked about EPCRA Trade Secret sheets being filed on an annual basis and whether Mr. Radano had visited the Berkeley site where this manufacturing takes place and how long did he visit. Mr. Radano has visited the Berkeley, California site and spent clusters of days.

Patrick Dennin asked if the materials that can't be disclosed to the public are transported as hazardous materials. Mr. Malloy stated other witnesses can answer that question.

Rhys Williams asked if heat is applied to the 1,000 gallon vessel in the process – the final step, and how does the acetone get in to that tank. Mr. Radano replied no, heat was not applied to that tank and did not know how the acetone was introduced to that vessel.

Mr. Malloy asked what happens after a delivery of acetone. Mr. Radano advised it is delivered, inspected, approved, and put to use. There were no further questions for Mr. Radano.

Ms. Camp announced the time of 10:08 p.m. and that another date should be chosen to continue to the Hearing. It was determined and announced that the Hearing would be continued to Thursday, April 7, 2016, beginning at 7:00 p.m. at the Pickering Valley Elementary School. If the Pickering Valley Elementary School was not available, the Parties to the Hearing would be notified and the Hearing advertised.

Respectfully submitted,

Gwen A. Jonik
Township Secretary